

## §962. Confidentiality

**1. Information subject to this section.** For purposes of this section, "protected valuation information" means:

A. A memorandum in support of an opinion submitted under section 952-A and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the superintendent or any other person in connection with the memorandum; [PL 2013, c. 238, Pt. C, §9 (NEW).]

B. All documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the superintendent or any other person in the course of an examination made under section 959, subsection 4 that would be confidential under section 225, subsection 3 if they had been prepared or obtained under section 221; [PL 2013, c. 238, Pt. C, §9 (NEW).]

C. Any reports, documents, materials and other information developed by an insurer in support of, or in connection with, an annual certification of internal controls under section 960, subsection 3, paragraph B and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the superintendent or any other person in connection with such reports, documents, materials and other information; [PL 2013, c. 238, Pt. C, §9 (NEW).]

D. Any principle-based valuation report developed under section 960, subsection 3, paragraph C and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the superintendent or any other person in connection with such a report; [PL 2013, c. 238, Pt. C, §9 (NEW).]

E. Any documents, materials, data and other information submitted by an insurer under section 961, referred to in this paragraph as "experience data," and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data that include any potentially insurer-identifying or personally identifiable information and that are provided to or obtained by the superintendent or any other person and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the superintendent or any other person in connection with such experience data and materials; and [PL 2013, c. 238, Pt. C, §9 (NEW).]

F. Any information received by the superintendent from the Actuarial Board for Counseling and Discipline or its successor related to a memorandum or report described in paragraph A or D, if the information has been provided with notice or the understanding that it is confidential or privileged under applicable law. [PL 2013, c. 238, Pt. C, §9 (NEW).]

[PL 2013, c. 238, Pt. C, §9 (NEW).]

**2. Confidentiality of information subject to this section.** Except as provided in this subsection, all protected valuation information is confidential, must be kept confidential by the superintendent, is not a public record and is not subject to subpoena or discovery or admissible in evidence in any private civil action. The superintendent may use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the superintendent's official duties, including sharing the information on a confidential basis under section 216, subsection 5.

A. Neither the superintendent nor any person who receives documents, materials or other information while acting under the authority of the superintendent is permitted or required to testify in any private civil action concerning any protected valuation information. [PL 2013, c. 238, Pt. C, §9 (NEW).]

B. Disclosure to the superintendent under this section or as a result of sharing of documents, materials or other information pursuant to section 216 does not constitute a waiver of any applicable privilege or claim of confidentiality with regard to the documents, materials or other information. [PL 2013, c. 238, Pt. C, §9 (NEW).]

C. The superintendent may share protected valuation information described in subsection 1, paragraphs A and D with the Actuarial Board for Counseling and Discipline or its successor upon a request stating that the information is required for the purpose of professional disciplinary proceedings and that the disciplinary entity agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of the information in the same manner and to the same extent as required for the superintendent. The superintendent may request and receive confidential information described in subsection 1, paragraph F from the Actuarial Board for Counseling and Discipline or its successor. The superintendent may enter into information-sharing agreements to facilitate the exchange of information under this paragraph. [PL 2013, c. 238, Pt. C, §9 (NEW).]

D. For protected valuation information described in subsection 1, paragraphs A and D, the confidentiality provided by this subsection may be limited or terminated as follows:

- (1) The information may be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the actuarial memorandum or principle-based valuation report;
- (2) The information may be released with the written consent of the insurer; and
- (3) If any portion of an actuarial memorandum or principle-based valuation report is cited by the insurer in its marketing or is publicly volunteered by the insurer before a governmental agency other than a state insurance agency or is released by the insurer to the news media, all portions of the memorandum or report become public records. [PL 2013, c. 238, Pt. C, §9 (NEW).]

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## SECTION HISTORY

PL 2013, c. 238, Pt. C, §9 (NEW).

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